

### REMARKS

Claims 1 - 3, 4, 6 - 13, 15 - 23 are in this application and are presented for reconsideration. By this Amendment, Applicant has amended Claims 1, 3, 4, and 6 - 13, canceled Claims 2, 5, and 14, added new claims 15 - 23 and made various minor changes to the specification and claims to highlight the important features of the present invention which are not anticipated nor made obvious by the prior art references and also to improve the clarity and style of this application. The amended independent claims 1 and 4 now include the features of the canceled claims 2 and 5 respectively and also highlight the important distinctions over the prior art references.

Applicant thanks the Examiner for the careful reading of the application. Applicant also thanks the Examiner for indicating allowable subject matter.

By this Amendment, the Applicant has amended the specification and several claims to overcome the Examiner's rejections and respectfully makes assertions for overcoming the rejections of the outstanding Office Action dated December 28, 2004 in the following paragraphs.

### **Claim Rejections - 35 U.S.C. §102**

Claims 1 and 4 have been rejected under 35 U.S.C. §102 (b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Yamamoto et al. (U.S. Patent No. 4,584,817, the "Yamamoto '817", hereinafter).

The prior art as a whole including the Yamamoto '817 reference neither teaches nor

suggests the present invention as claimed. Yamamoto '817 reference discloses a capsule sealing machine comprising a rectifying unit for rectifying closed capsules, a conveyance unit for conveying from a transfer station, a liquid binder applicator for applying a liquid binder to the overlapping joint area, and a drying unit for drying the applied liquid binder. The drying unit D comprises a generally U-sectioned trough 58 secured to the upper back-up plate 47 from below and extending from a location adjacent the applicator unit A to a location adjacent the turning area of the slat 44. A hot air flows within the trough 58 and can emerge outwards for drying the plies of geleatin solution applied to the capsules 10.

Thus, the Yamamoto '817 reference provides for sealing the capsules but makes use of a conveyance unit of chain type which is extremely long to give the sealing solution the time to dry. Yamamoto '817 also adopts vertically disposed discoid members 25, 34 to feed the capsules to the chain member.

In contrast, the present invention as claimed provides for several important differences which are not anticipated, and not made obvious by the Yamamoto '817 reference. First, the present invention as claimed provides for primarily two support structures where the two structures are partially overlapping each other. This design allows for a much simpler and cheaper manufacture and operation. Second, the supports are circularly shaped in a platform design. A platform design makes it much easier for the supports to be swapped in and out for replacement according to the varying size of the different types of capsules. Third, the circular platform-shaped supports move angularly in a rotating manner so that the seats in the second circular platform-shaped support can be

manufactured in a similar size, and yet afford the circular platform-shaped support to rotate the vertical capsules further time to dry before being dispensed. Fourth, the plurality of through apertures are superimposed and moved close to a respective fixed table designed to prevent the capsules from being dropped from the apertures. This table, as mentioned previously, also allows easier swapping of different circular platform-shaped supports. The Yamamoto '817 reference does not provide for any of the above features. Thus, the Yamamoto '817 reference cannot anticipate or suggest the present invention as claimed.

In fact, the Yamamoto '817 reference apparatus is well known to those skilled in the art. The apparatus which is manufactured according to the disclosure of the Yamamoto '817 reference results in an extremely cumbersome and expensive design. The use of the apparatus is also very costly because, in case of capsules of different sizes, it is necessary to replace a long chain device 44 - 45 to seal them.

All this makes the Yamamoto '817 reference not fully acceptable because it can only be used for very limited productions like those relating to capsules holding doses of liquid, or semi-liquid products, (that approximately correspond to 5% of the products to be sealed) and it does not work for capsules which are simply closed without sealant, as when they hold powdered or granular products.

In contrast, the present invention as claimed has very limited overall dimensions, is of limited cost to manufacture and, in order to seal capsules therein of different dimensions, it is sufficient to replace the two discs 1 and 3; the replacement operation is performed very quickly and the two discs are less costly than the very long chain assemblies that are to be

replaced in the Yamamoto apparatus when changing the sizes of the capsules.

The seats B3 for capsules of a disc A3 of the present invention are in a very high number within a single disc of relatively small diameter, whereas a like number of seats for capsules disposed on the member 44 - 45 of Yamamoto demands a much extended (and very expensive) length of such member, and time-consuming replacement operations.

Thus, it is the Applicant's position that the Yamamoto '817 reference neither discloses nor suggests the present invention as claimed.

#### **Claim Rejections 35 U.S.C. §103**

Claims 5, 6 and 10 have been rejected as being obvious over Yamamoto '817 in view of Crossley et al. (U.S. Patent No. 3,978,640, "Crossley '640", hereinafter).

The Crossley '640 reference discloses a hard-gelatin capsule filling machine where empty capsules from a random bulk supply in a hopper and are fed in succession from a feeding station to an uncapping station and then to a filling station and then to a re-capping station and then to an ejection station in a single continuously rotating phase of the machine.

Specifically, the Crossley '640 reference relates to an apparatus for filling and closing the capsules, completely different from that of the present invention, that receives the capsules in a closed condition (as they come from a machine like that disclosed in the Crossley '640 reference or any other machine) and provides for sealing the closed capsules with a sealing solution which has to dry up before the capsules are dispensed. Accordingly,

the Crossley '640 reference does not solve any problem of the type solved by the present invention as claimed. The reference fails to suggest the subject matter of original claims 5 (see new claim 1), 6 and 10.

Claims 2, 3, 7, 11, and 12 - 14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Yamamoto '817 reference. It is Applicant's position that claims 2, 3, 7, 11 and 12 are not obvious in view of the Yamamoto '817 reference. The present invention as claimed provides for a combination of features not taught by the prior art as a whole including the Crossley '640 reference or the Yamamoto '817 reference. For instance, there are several differences for the present invention as claimed.

As mentioned above, the present invention as claimed provides for primarily two support structures where the two structures are partially overlapping each other. In addition, the supports are circularly shaped in a platform design. Such platform design makes it much easier for the supports to be swapped in and out for replacement according to the varying size of the different types of capsules. Furthermore, the circular platform-shaped supports move angularly in a rotating manner so that the seats in the second circular platform-shaped support can be manufactured in a similar size, and yet afford the circular platform-shaped support to rotate the vertical capsules further time to dry before being dispensed. Finally, the plurality of through apertures are superimposed and moved close to a respective fixed table designed to prevent the capsules from being dropped from the apertures. Since the Yamamoto '817 reference does not provide for any of the above features, the Yamamoto '817 reference can not anticipate or suggest the present invention as claimed.

The present invention as claimed has a very limited overall dimensions, is of limited cost to manufacture and, in order to seal capsules therein of different dimensions, it is sufficient to replace the two discs 1 and 3; the replacement operation is performed very quickly and the two discs are extremely less costly than the very long chain assemblies that are to be replaced in the Yamamoto apparatus when changing the sizes of the capsules.

More importantly, the seats B3 for capsules of a disc A3 of the present invention are in a very high number within a single disc of relatively small diameter, whereas a like number of seats for capsules disposed on the member 44 - 45 of Yamamoto demands a much extended (and very expensive) length of such member, and time-consuming replacement operations.

Furthermore, Applicant finds no incentive in either the Crossley '640 reference or the Yamamoto '817 reference which would lead a person to all the structural features of the circular platform-shaped support, or the angular movement thereof. Claims 1 and 4 therefore cannot be obvious in view of the Yamamoto '817 reference.

The above advantages each are due to the combination of features as claimed and the advantages can not be obtained from the prior art. The invention solves the problem of drying capsules in a very small space and also allow a configuration for different types of capsules. The prior art does not recognize these problems and directs the skilled artisan in a different direction. I.e., in a more cumbersome design and costly manufacturing process.

There must be some suggestion or teaching in the prior art as a whole which would lead the person of ordinary skill in the art to provide the combination as claimed. As the prior art as a whole fails to direct the person of ordinary skill in the art toward the claimed

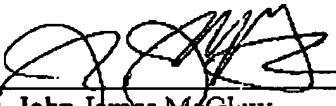
combination, the invention should be considered not anticipated, non-obvious and thus patentable. Therefore, Applicant finds that each of the Crossley '640 reference or the Yamamoto '817 reference does not anticipate the current invention and there is no suggestion or motivation to use the teachings of the references to provide the combination as claimed.

As the prior art fails to suggest the combination of features as claimed, Applicant respectfully requests that the Examiner reconsider the rejection in view of the amended claims and in view of the discussion above. Applicant respectfully solicits allowance of this application.

It is applicant's position that all claims are now allowable. Should the Examiner determine that issues remain that have not been resolved by this response, the Examiner is requested to contact Applicant's representative at the number listed below.

Favorable action is requested.

Respectfully submitted  
for Applicant,

By:   
John James McGlew  
Registration No. 31,903  
McGLEW AND TUTTLE, P.C.

JJM/DWK:jms

Enclosed: Petition for Extension of Time  
Credit Card Payment Form

71264.5

DATED: April 27, 2005  
BOX 9227 SCARBOROUGH STATION  
SCARBOROUGH, NEW YORK 10510-9227  
(914) 941-5600

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK  
OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT  
ACCOUNT 13-0410.